

United States District Court

Newark, New Jersey 07101

(973) 645-3574

DENNIS M. CAVANAUGH  
JUDGE

November 1, 2010

VIA ECF

RE: FTC v. Lane Labs-USA, Inc.  
Civil No. 00-cv-3174 (DMC)

Dear Counsel:

In light of the Third Circuit's decision in FTC v. Lane Labs-USA, Inc., No. 09-3909, issued on September 14, 2010, the Court is requesting that the parties submit proposed findings of fact based on, and citing to, the transcripts of the five-day evidentiary hearing held by this Court beginning on April 20, 2009. In these findings of fact, the parties should address only the following issues:

1. Whether Lane Labs' claims that "AdvaCal is three to four times more absorbable than other calcium supplements" promised results that were unattainable for large segments of its audience. Whether AdvaCal was marketed to elderly females at risk of, or suffering from achlorhydria;
2. Whether Lane Labs distorted research regarding AdvaCal such that express or implied misrepresentations were made regarding "the existence, contents, validity, results, conclusions, or interpretations of any test, study or research" pertaining to "the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any food, dietary supplement, or drug";
3. The extent to which any violations of the Final Order were "technical" or "inadvertent," thereby justifying a defense of substantial compliance.

The Court orders the parties to submit their findings of fact no later than December 1, 2010.

Very truly yours,

  
DENNIS M. CAVANAUGH  
United States District Judge

cc: File